

National Counterintelligence Center

§ 1804.16

each request for historical access received under this part, acknowledge receipt to the requester in writing and take the following action:

(a) *Compliance with general requirements.* The Coordinator shall review each request under this part and determine whether it meets the general requirements as set forth in §1804.11; if it does not, the Coordinator shall so notify the requester and explain the legal basis for this decision.

(b) *Action on requests meeting general requirements.* For requests which meet the requirements of §1804.11, the Coordinator shall thereafter task the originator(s) of the materials for which access is sought and other interested parties. Additional taskings, as required during the review process, shall be accomplished within ten (10) days of notification.

§ 1804.14 Determinations by tasked officials.

(a) *Required determinations.* The tasked parties as specified below shall respond in writing to the Coordinator with recommended findings to the following issues:

(1) That a serious professional or scholarly research project by the requester is contemplated;

(2) That such access is clearly consistent with the interests of national security (by originator and interested party, if any);

(3) That a non-disclosure agreement has been or will be executed by the requester (or research associate, if any) and other appropriate steps have been taken to assure that classified information will not be disclosed or otherwise compromised;

(4) That a pre-publication agreement has been or will be executed by the requester (or research associate, if any) which provides for a review of notes and any resulting manuscript by the Deputy Director of NACIC;

(5) That the information requested is reasonably accessible and can be located and compiled with a reasonable effort (by the Deputy Director of NACIC and the originator);

(6) That it is reasonably expected that substantial and substantive government documents and/or information will be amenable to declassification

and release and/or publication (by the Deputy Director of NACIC and the originator);

(7) That sufficient resources are available for the administrative support of the researcher given current mission requirements (by the Deputy Director of NACIC and the originator); and,

(8) That the request cannot be satisfied to the same extent through requests for access to reasonably described records under the Freedom of Information Act or the mandatory declassification review provisions of Executive Order 12958 (by the Coordinator, the Deputy Director of NACIC and the originator).

(b) *Time.* These responses shall be provided expeditiously on a first-in, first-out basis taking into account the business requirements of the tasked offices and consistent with the information rights of members of the general public under the Freedom of Information Act and the Privacy Act. NACIC will utilize its best efforts to complete action on requests under this part within thirty (30) days of date of receipt.

§ 1804.15 Action by hearing authority.

Action by Coordinator. The Coordinator shall provide a summation memorandum for consideration of the Director, NACIC, the complete record of the request consisting of the request and the findings of the tasked parties. The Director, NACIC shall decide requests on the basis of the eight factors enumerated at §1804.14(a). The Director, NACIC shall personally decide each case; no personal appearances shall be permitted without the express permission of the Director, NACIC.

§ 1804.16 Action by appeal authority.

The record compiled (the request, the memoranda filed by the originator and interested parties, and the previous decision(s)) as well as any memorandum of law or policy the referent desires to be considered, shall be certified by the Coordinator and shall constitute the official record of the proceedings and must be included in any subsequent filings. In such cases, the factors to be determined as specified in §1804.14(a) will be considered by the Director,